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AMENDED IN SENATE APRIL 24, 2006

## **SENATE BILL**

**No. 1550**

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**Introduced by Senator Figueroa**  
**(Principal coauthors: Senators Alquist and Scott)**  
(Principal coauthor: Assembly Member Jones)

February 23, 2006

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An act to add Chapter 6 (commencing with Section 6500) to Division 3 of the Business and Professions Code, and to add Section 60.1 to, to amend, repeal, and add Article 4 (commencing with Section 2340) to Chapter 4 of Part 4 of Division 4 of, and to amend and repeal Chapter 13 (commencing with Section 2850) of Part 4 of Division 4 of, the Probate Code, relating to professional fiduciaries.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1550, as amended, Figueroa. Professional Fiduciaries Act.

Existing law requires all private professional conservators, private professional guardians, and private professional trustees to file a specified annual statement, under penalty of perjury, with the clerk of the court. Existing law prohibits a court from appointing a person as a conservator, guardian, or trustee, unless he or she is registered in the

Statewide Registry maintained by the Department of Justice and has filed the annual statement with the court.

This bill would enact the Professional Fiduciaries Act, which would create the Board of Professional Fiduciaries in the Department of Consumer Affairs and would require the board to license and regulate professional fiduciaries, as specified. On and after January 1, 2008, the act would require a person acting or holding himself or herself out as a professional fiduciary to be licensed as a professional fiduciary, unless he or she is licensed as an attorney *or as a certified public accountant*, and would require a licensee to meet certain other requirements, including filing an application for licensure signed under penalty of perjury, payment of licensing fees set by the board, submission of fingerprints for a criminal background check, filing a bond, and annually filing a statement containing specified information under penalty of perjury. The act would provide for the deposit of licensing fees in the Professional Fiduciaries Fund, which the bill would create and which would be the successor fund to certain fees in the Statewide Registry. The board would become inoperative on July 1, 2011, and be repealed on January 1, 2012, ~~and its responsibilities and jurisdiction would be transferred to the Department of Justice.~~

This bill would also delete, on January 1, 2008, the provisions of the Probate Code that relate to the registration of private professional conservators and guardians.

This bill would only become operative if SB 1116, SB 1716, and AB 1363 are enacted and become effective on or before January 1, 2007.

Because this bill would require the filing of documents signed under penalty of perjury, it would expand the crime of perjury and thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2 following:

3     (a) California's population is growing at an increasing rate,  
4 and the growth in the number of people 65 years of age or older  
5 is surpassing that in other states. The number of California's  
6 population 65 years of age or older will grow from 3.6 million  
7 people in the year 2000, to 6.2 million people in the year 2020,  
8 an increase of 171 percent.

9     (b) As the population of California continues to grow and age,  
10 an increasing number of people in the state are unable to provide  
11 properly for their personal needs, manage their financial  
12 resources, or resist fraud or undue influence as well as fiscal,  
13 emotional, and physical harm. In addition, there is an increasing  
14 use of trusts and durable powers of attorney by individuals  
15 seeking to provide for potential incapacity. These vulnerable  
16 members of society have an expectation that they and their  
17 property will be protected by a fair system with high standards of  
18 care.

19     (c) One result of these trends is the growing number of people  
20 acting as conservators, guardians, trustees, attorneys in fact, and  
21 estate administrators on behalf of other persons or their estates.  
22 The persons acting in one or more of these capacities are known  
23 as professional fiduciaries.

24     (d) Professional fiduciaries are not adequately regulated at  
25 present. This lack of regulation can result in the neglect or the  
26 physical, emotional or financial abuse of the vulnerable clients  
27 that professional fiduciaries are supposed to serve. Unless there  
28 is a strengthened accountability, abuses of people who are unable  
29 to take care of themselves or their property by professional  
30 fiduciaries will increase.

31     (e) Creation of a program to license and regulate professional  
32 fiduciaries is necessary to protect the public health, safety, and  
33 welfare.

34     SEC. 2. Chapter 6 (commencing with Section 6500) is added  
35 to Division 3 of the Business and Professions Code, to read:

## CHAPTER 6. PROFESSIONAL FIDUCIARIES

## Article 1. General Provisions

6500. This chapter shall be known as the Professional Fiduciaries Act.

6501. As used in this chapter, the following terms have the following meanings:

(a) “Act” means this chapter.

(b) “Board” means the Board of Professional Fiduciaries within the Department of Consumer Affairs, established pursuant to Section 6510.

(c) “Client” means an individual *who is* served by a professional fiduciary.

(d) “Department” means the Department of Consumer Affairs.

(e) “Licensee” means a person *who is* licensed under this chapter as a professional fiduciary.

(f) “Professional fiduciary” means a person who acts as a conservator, guardian, trustee, personal representative, agent under a durable power of attorney for health care, or agent under a durable power of attorney for finances, for two or more persons at the same time who are not related to the professional fiduciary by blood, adoption, marriage, or registered domestic partnership. ~~“Professional fiduciary” does not mean a bank or other entity authorized to conduct the business of a trust company, or any public officer or public agency, including a public guardian, public conservator, or other agency of the State of California.~~ *“Professional fiduciary” does not include any of the following:*

(1) *A trust company, as defined in Section 83 of the Probate Code.*

(2) *An FDIC-insured institution, or its holding companies, subsidiaries, or affiliates. For the purposes of this paragraph, “affiliate” means any entity that shares an ownership interest with, or that is under the common control of, the FDIC-insured institution.*

(3) *A person employed by an entity described in paragraph (1) or (2) who is acting in the course and scope of that employment.*

(4) *Any public officer or public agency, including the public guardian, public conservator, or other agency of the State of California or of a county of California, when that public officer*

1 *or public agency is acting in the course and scope of official*  
2 *duties.*

3 6502. (a) Every person who is required to register with the  
4 Statewide Registry maintained by the Department of Justice  
5 under Chapter 13 (commencing with Section 2850) of Part 4 of  
6 Division 4 of the Probate Code prior to January 1, 2007, shall be  
7 required to obtain a license as a professional fiduciary under this  
8 chapter.

9 (b) Every person who is required to file information with the  
10 clerk of the court under Article 4 (commencing with Section  
11 2340) of Chapter 3 of Part 4 of Division 4 of the Probate Code  
12 prior to January 1, 2007, shall be required to obtain a license as a  
13 professional fiduciary under this chapter.

14  
15 Article 2. Administration  
16

17 6510. (a) There is in the Department of Consumer Affairs a  
18 Board of Professional Fiduciaries, which consists of seven  
19 members, four of whom shall be public members and three of  
20 whom shall be licensees actively engaged as professional  
21 fiduciaries in this state. One of the public members shall be a  
22 member of a nonprofit organization advocating on behalf of the  
23 elderly, and one of the public members shall be a probate court  
24 investigator.

25 (b) In addition to the seven member board, the  
26 Conservatorship Ombudsman, as provided in Section 9801 of the  
27 Welfare and Institutions Code, shall serve as an ex officio  
28 nonvoting member of the board.

29 (c) This section shall become inoperative on July 1, 2011, and,  
30 as of January 1, 2012, is repealed, unless a later enacted statute,  
31 that becomes operative on or before January 1, 2011, deletes or  
32 extends the dates on which it becomes inoperative and is  
33 repealed. The repeal of this section renders the board subject to  
34 the review required by Division 1.2 (commencing with Section  
35 473).

36 ~~Notwithstanding any other provision of law, upon the repeal of~~  
37 ~~this section, the responsibilities and jurisdiction of the board shall~~  
38 ~~be transferred to the Department of Justice.~~

39 6511. (a) Members of the board shall be appointed for terms  
40 of four years, and shall hold office until the appointment of their

1 successors or until one year has elapsed since the expiration of  
2 the term for which they were appointed, whichever first occurs.  
3 Vacancies shall be filled by the appointing power for the  
4 unexpired portion of the terms in which they occur. No person  
5 shall serve as a member of the board for more than two  
6 consecutive terms.

7 (b) The Governor shall appoint the three licensee members.  
8 The board members appointed by the Governor shall be subject  
9 to approval by the Senate.

10 (c) The Senate Committee on Rules and the Speaker of the  
11 Assembly shall each appoint two public members.

12 (d) Members of the board may be removed from office by the  
13 appointing authority for neglect of any duty imposed by state  
14 law, for incompetence, or for unprofessional or dishonorable  
15 conduct.

16 6512. Each member of the board shall receive a per diem and  
17 expenses as provided in Section 103.

18 6513. The board shall appoint, prescribe the duties of, and fix  
19 the salary of, an executive officer. The board may also employ,  
20 subject to civil service and other provisions of law, other  
21 employees as may be necessary to carry out the provisions of this  
22 chapter under the direction of the executive officer.

23 This section shall become inoperative on July 1, 2011, and, as  
24 of January 1, 2012, is repealed, unless a later enacted statute,  
25 which becomes effective on or before January 1, 2011, deletes or  
26 extends the dates on which it becomes inoperative and is  
27 repealed.

28 6514. (a) The board may convene from time to time as it  
29 deems necessary.

30 (b) Four members of the board constitute a quorum for the  
31 transaction of business at any meeting.

32 (c) It shall require the affirmative vote of a majority of those  
33 members present at a meeting, assuming that those members  
34 constitute at least a quorum, to pass any motion, resolution, or  
35 measure.

36 (d) The board shall annually elect one of its members to act as  
37 president and one member to act as vice president, who shall  
38 hold their respective positions at the pleasure of the board. The  
39 president or the executive officer may call meetings of the board  
40 and any duly appointed committee at a specified time and place.

1 (e) The board shall keep a complete record of all its  
2 proceedings and all licenses issued, renewed, or revoked, and a  
3 detailed statement of receipts and disbursements.

4 6515. The duty of administering and enforcing this chapter is  
5 vested in the board and the executive officer subject to, and  
6 under the direction of, the board. In the performance of this duty,  
7 the board and the executive officer have all of the powers of, and  
8 are subject to all of the responsibilities vested in and imposed  
9 upon, the head of a department by Chapter 2 (commencing with  
10 Section 11150) of Part 1 of Division 3 of Title 2 of the  
11 Government Code.

12 6516. Protection of the public shall be the highest priority for  
13 the board in exercising its licensing, regulatory, and disciplinary  
14 functions. Whenever the protection of the public is inconsistent  
15 with other interests sought to be promoted, the protection of the  
16 public shall be paramount.

17 6517. The board may adopt, amend, or repeal, in accordance  
18 with the provisions of the Administrative Procedure Act (Chapter  
19 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
20 Title 2 of the Government Code), regulations necessary to enable  
21 the board to carry into effect the provisions of law relating to this  
22 chapter.

23 6518. (a) The board shall be responsible for administering  
24 the licensing and regulatory program established in this chapter.

25 (b) The board shall approve classes qualifying for prelicense  
26 education, as well as classes qualifying for annual continuing  
27 education required by this chapter. The board shall maintain a  
28 current list of all approved classes.

29 (c) The board shall arrange for the preparation and  
30 administration of licensing examinations.

31 6519. Board members shall be immune from liability for any  
32 act taken pursuant to this chapter, provided that they have acted  
33 in good faith.

34 6520. The board shall adopt, by regulation, a Professional  
35 Fiduciaries' Code of Ethics. The Professional Fiduciaries' Code  
36 of Ethics shall be consistent with all statutory requirements, as  
37 well as requirements developed by the courts and the Judicial  
38 Council. The Professional Fiduciaries' Code of Ethics shall be  
39 provided electronically on the board's Internet Web site and to  
40 persons who request an application for licensure. The board may,

1 by regulation, amend the Professional Fiduciaries' Code of  
2 Ethics from time to time, as it deems necessary, provided that no  
3 amendment shall be effective with regard to a licensee until the  
4 licensee's next annual license renewal cycle, as specified in  
5 subdivision (a) of Section 6542, is completed. Any amendment to  
6 the Professional Fiduciaries' Code of Ethics shall be included in  
7 the license renewal materials sent to a licensee.

8  
9 Article 3. Licensing

10  
11 6530. (a) On and after January 1, 2008, no person shall act or  
12 hold himself or herself out to the public as a professional  
13 fiduciary unless that person is licensed as a professional fiduciary  
14 in accordance with the provisions of this chapter.

15 (b) This section does not apply to a person licensed as an  
16 attorney under the State Bar Act (Chapter 4 (commencing with  
17 Section 6000)).

18 *(c) This section does not apply to a person licensed as, and*  
19 *acting within the scope of practice of, a certified public*  
20 *accountant pursuant to Chapter 1 (commencing with Section*  
21 *5000) of Division 3.*

22 6531. No professional fiduciary shall operate with an expired,  
23 suspended, or revoked license or without a valid licensing bond,  
24 as required by Section 6543.

25 6532. A person who has been licensed by the board may  
26 identify himself or herself as a "licensed professional fiduciary."

27 6533. In order to meet the qualifications for licensure as a  
28 professional fiduciary a person shall meet all of the following  
29 requirements:

30 (a) Be at least 21 years of age.

31 (b) Be a United States citizen, or be legally admitted to the  
32 United States.

33 (c) Have not committed any acts that are ground for denial of  
34 a license under Section 480 or 6536.

35 (d) Submit fingerprint images as specified in Section 6533.5 in  
36 order to obtain criminal offender record information.

37 (e) Have completed the required prelicensing education  
38 described in Section 6538.

39 (f) Have passed the licensing examination administered by the  
40 board pursuant to Section 6539.



1 (g) Have at least one of the following:

2 (1) A baccalaureate degree of arts or sciences from a college  
3 or university accredited by a nationally recognized accrediting  
4 body of colleges and universities or a higher level of education.

5 (2) An associate of arts or science degree from a college or  
6 university accredited by a nationally recognized accrediting body  
7 of colleges and universities, and at least five years of experience  
8 with substantive fiduciary responsibilities working for a  
9 professional fiduciary, public agency, or financial institution  
10 acting as a conservator, guardian, trustee, personal representative,  
11 or agent under a power of attorney.

12 (3) Experience of not less than three years, prior to January 1,  
13 2007, with substantive fiduciary responsibilities working for a  
14 public agency or financial institution acting as a conservator,  
15 guardian, trustee, personal representative, or agent under a power  
16 of attorney.

17 (h) Agree to adhere to the Professional Fiduciaries' Code of  
18 Ethics and to all statutes and regulations.

19 (i) Consent to the board conducting a credit check on the  
20 applicant.

21 (j) File a completed application for licensure with the board on  
22 a form provided by the board and signed by the applicant under  
23 penalty of perjury.

24 (k) Submit with the license application a nonrefundable  
25 application fee, as specified in this chapter.

26 (l) File the bond with the board as described in Section 6542.  
27 6533.5. Criminal offender record information shall be  
28 obtained on each applicant as provided in this section.

29 (a) Each applicant shall submit fingerprint images to the  
30 Department of Justice for the purpose of obtaining criminal  
31 offender record information regarding state and federal level  
32 convictions and arrests, including arrests where the Department  
33 of Justice establishes that the person is free on bail or on his or  
34 her own recognizance pending trial or appeal.

35 (b) When received, the Department of Justice shall forward to  
36 the Federal Bureau of Investigation requests for federal summary  
37 criminal history information received pursuant to this section.  
38 The Department of Justice shall review the information returned  
39 from the Federal Bureau of Investigation and compile and  
40 disseminate a fitness determination to the board.

1 (c) The Department of Justice shall provide a response to the  
2 board pursuant to subdivision (p) of Section 11105 of the Penal  
3 Code.

4 (d) The board shall request from the Department of Justice  
5 subsequent arrest notification service, as provided pursuant to  
6 Section 11105.2 of the Penal Code.

7 (e) The Department of Justice shall charge a fee sufficient to  
8 cover the cost of processing the request described in this section.

9 6534. (a) The board shall maintain the following information  
10 in each licensee's file, shall make this information available to a  
11 court for any purpose, including the determination of the  
12 appropriateness of appointing or continuing the appointment of,  
13 or removing, the licensee as a conservator, guardian, trustee, or  
14 personal representative, and shall otherwise keep this information  
15 confidential, except as provided in subdivisions (b) and (c) of this  
16 section:

17 (1) The names of the licensee's current conservatees or wards  
18 and the trusts or estates currently administered by the licensee.

19 (2) The aggregate dollar value of all assets currently under the  
20 licensee's supervision.

21 (3) The licensee's current addresses and telephone numbers  
22 for his or her place of business and place of residence.

23 (4) Whether the licensee has ever been removed for cause as  
24 conservator, guardian, trustee, or personal representative or has  
25 ever resigned as conservator, guardian, trustee, or personal  
26 representative in a specific case, the circumstances causing that  
27 removal or resignation, and the case names, court locations, and  
28 case numbers associated with the removal or resignation.

29 (5) The case names, court locations, and case numbers of all  
30 conservatorship, guardianship, *or* trust or other estate  
31 administration cases that are closed for which the licensee served  
32 as the conservator, guardian, trustee, or personal representative.

33 (6) Information regarding any discipline imposed upon the  
34 licensee by the board.

35 (7) Whether the licensee has ever filed for bankruptcy or held  
36 a financial interest in a business that filed for bankruptcy.

37 (b) The board shall make the information in paragraphs (2),  
38 (4), (6), and (7) of subdivision (a) available to the public.

39 (c) The board shall also publish information regarding  
40 licensees on the Internet as specified in Section 27. The

1 information shall include, but shall not be limited to, information  
2 regarding license status and the information specified under  
3 subdivision (b).

4 6535. The board shall approve or deny licensure in a timely  
5 manner to applicants who apply for licensure. Upon approval of  
6 a license, the board shall notify the applicant of issuance of the  
7 license, and shall issue a license certificate identifying him or her  
8 as a “licensed professional fiduciary.”

9 6536. The board shall review all applications for licensure  
10 and may investigate an applicant’s qualifications for licensure.  
11 The board shall approve those applications that meet the  
12 requirements for licensure, but shall not issue a license to any  
13 applicant who meets any of the following criteria:

14 (a) Does not meet the qualifications for licensure under this  
15 chapter.

16 (b) Has been convicted of a crime substantially related to the  
17 qualifications, functions, or duties of a fiduciary.

18 (c) Has engaged in fraud or deceit in applying for a license  
19 under this chapter.

20 (d) Has engaged in dishonesty, fraud, or gross negligence in  
21 performing the functions or duties of a fiduciary, including  
22 engaging in such conduct prior to January 1, 2007.

23 (e) Has been removed as a fiduciary by a court for breach of  
24 trust committed intentionally, with gross negligence, in bad faith,  
25 or with reckless indifference, or has demonstrated a pattern of  
26 negligent conduct, including a removal prior to January 1, 2007,  
27 and all appeals have been taken, or the time to file an appeal has  
28 expired.

29 6537. The board may deny a license for the reasons specified  
30 in Section 480 or 6536. An applicant notified of the denial of his  
31 or her application for licensure shall have the right to appeal to  
32 the board as specified in Chapter 2 (commencing with Section  
33 480) of Division 1.5.

34 6538. (a) To qualify for licensure, an applicant shall have  
35 completed 30 hours of prelicensing education courses provided  
36 by an educational program approved by the board.

37 (b) To renew a license, a licensee shall complete 15 hours of  
38 approved continuing education courses each year.

39 (c) The cost of any educational course required by this chapter  
40 shall not be borne by any client served by a licensee.

1     6539. As a requirement for licensure, an applicant shall take  
2 and pass the licensing examination administered by the board.  
3 The board shall determine the frequency with which the  
4 examination will be given. The board shall also determine the  
5 frequency with which an applicant for reexamination may sit for  
6 the examination. The board shall administer the examination  
7 through a computer-based examination process and other means.

8     6540. Individuals, entities, agencies, and associations that  
9 propose to offer educational programs qualifying for the  
10 prelicensing educational or continuing educational requirements  
11 of this chapter shall apply for and obtain the approval of the  
12 board.

13     6541. (a) A license shall expire one year after it was issued  
14 on the last day of the month in which it was issued.

15     (b) A license may be renewed by filing a renewal application  
16 with the board, submitting the annual statement required by  
17 Section 6561, submitting proof of the licensee's compliance with  
18 the continuing education requirements of this chapter, and  
19 payment of the renewal fee set by the board, provided that the  
20 licensee has not engaged in conduct that would justify the  
21 board's refusal to grant the renewal. Acts justifying the board's  
22 refusal to renew a license shall include any of the following:

23     (1) Conviction of a crime substantially related to the  
24 qualifications, functions, or duties of a fiduciary.

25     (2) Fraud or deceit in obtaining a license under this chapter.

26     (3) Dishonesty, fraud, or gross negligence in performing the  
27 functions or duties of a professional fiduciary.

28     (4) Removal by a court as a fiduciary for breach of fiduciary  
29 duty if all appeals have been taken or the time to file an appeal  
30 has expired.

31     (c) By operation of law, the board shall not renew the license  
32 of a professional fiduciary whose license bond has lapsed or been  
33 canceled, reduced, or is otherwise no longer in effect. The license  
34 may be renewed upon submission of proof of a valid licensing  
35 bond, as required by Section 6542.

36     6542. (a) As a condition precedent to the issuance,  
37 reinstatement, reactivation, renewal, or continued maintenance of  
38 a license, an applicant or licensee shall file with the board a bond  
39 of one hundred thousand dollars (\$100,000), executed by a  
40 corporate surety admitted to do business in this state and

1 conditioned to compliance with this chapter. This bond shall be  
2 in addition to any other bond otherwise required of the applicant  
3 or licensee.

4 (1) The total aggregate liability on the bond shall be limited to  
5 one hundred thousand dollars (\$100,000).

6 (2) The bond may be terminated pursuant to Section 995.440  
7 of, and Article 13 (commencing with Section 996.310) of  
8 Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

9 (b) The bond required under subdivision (a) shall be increased  
10 to three hundred thousand dollars (\$300,000) if the licensee  
11 provides services to more than five but not more than 10 persons  
12 or if the aggregate value of the conservatorship, guardianship,  
13 trust, or probate estates administered exceeds five hundred  
14 thousand dollars (\$500,000), and to one million dollars  
15 (\$1,000,000) if the licensee provides services to more than 10  
16 persons or if the aggregate value of the conservatorship,  
17 guardianship, trust, or probate estates administered exceeds one  
18 million dollars (\$1,000,000). In addition, the board may, for good  
19 cause shown, further increase the bond requirement for the  
20 licensing or renewal of a license of a conservator, guardian,  
21 trustee, or personal representative.

22 (c) The bond required by this section shall be in favor of, and  
23 be payable to, the people of the State of California and shall be  
24 for the benefit of any person damaged by any fraud,  
25 misstatement, misrepresentation, unlawful act or omission, or  
26 failure to provide the services of the professional fiduciary or the  
27 agents, representatives, or employees of the professional  
28 fiduciary while acting within the scope of that employment or  
29 agency and shall be payable upon the imposition of any judgment  
30 against the licensee by a court, or disciplinary decision against  
31 the licensee by the board.

32 6543. (a) A person who is awarded damages in an action or  
33 proceeding for injuries caused by the acts of a person engaged in  
34 the business of, or acting in the capacity of, a professional  
35 fiduciary, in the performance of his or her duties as a  
36 professional fiduciary, may recover damages from the bond  
37 required by Section 6542. In an action brought by the Attorney  
38 General, a district attorney, or a city attorney, the court may  
39 order relief for benefit of the injured parties to be paid from the  
40 bond.

(b) When any claim or claims against a bond have been paid so as to reduce the principal amount of the bond remaining available to pay claims below the principal amount required by Section 6542, the licensee shall cease to act as a professional fiduciary unless and until the bond has been reinstated up to the minimum amount required by Section 6542.

(c) A payment from the bond shall not be considered the sole remedy for action taken against a licensee.

#### Article 4. Practice Provisions

6560. A licensee shall keep complete and accurate records of client accounts, and shall make those records available for audit as may be ordered by the board.

6561. (a) A licensee shall initially, and annually thereafter, file with the board a statement under penalty of perjury containing the following:

(1) Her or his business address, telephone number, and facsimile number.

(2) Whether or not he or she has been removed for cause. The licensee may file an additional statement of the issues and facts pertaining to the case.

(3) The case names, court locations, and case numbers for all matters where the licensee has been appointed by the court.

(4) Whether he or she has been found by a court to have breached a fiduciary duty.

(5) Whether he or she has resigned or settled a matter in which a complaint has been filed, along with the case number and a statement of the issues and facts pertaining to the allegations.

(6) Any licenses or professional certificates held by the licensee.

(7) Any ownership or beneficial interests in any businesses or other enterprises held by the licensee or by a family member that receives or has received payments from a client of the licensee.

(8) Whether the licensee has ever filed for bankruptcy or held a financial interest in a business that filed for bankruptcy.

(9) The name of any persons or entities that have an interest in the licensee's professional fiduciary business.

(10) Whether the licensee has been convicted of a crime .

1 (b) The statement by the licensee required by this section may  
2 be filed electronically with the board, in a form approved by the  
3 board. However, any additional statement filed under paragraph  
4 (2) of subdivision (a) shall be filed in writing.

5 6562. The annual statement shall be filed with the board 60  
6 days prior to the expiration of the license as provided in  
7 subdivision (a) of Section 6541.

8  
9 Article 5. Enforcement and Disciplinary Proceedings  
10

11 6580. (a) The board may upon its own, and shall, upon the  
12 receipt of a complaint from any person, investigate the actions of  
13 any professional fiduciary. The board shall review a professional  
14 fiduciary's alleged violation of statute, regulation, or the  
15 Professional Fiduciaries' Code of Ethics and any other complaint  
16 referred to it by the public, a public agency, the Conservatorship  
17 Ombudsman, as provided in Section 9801 of the Welfare and  
18 Institutions Code, or the department, and may impose sanctions  
19 upon a finding of a violation or a breach of fiduciary duty.

20 (b) Sanctions shall include any of the following:

21 (1) Administrative citations and fines as provided in Section  
22 125.9 for violations of this chapter, the Professional Fiduciaries'  
23 Code of Ethics, or any regulation adopted under this chapter.

24 (2) License suspension, probation, or revocation.

25 (c) The board shall provide on the Internet information  
26 regarding any sanctions imposed by the board on licensees,  
27 including, but not limited to, information regarding citations,  
28 fines, suspensions, and revocations of licenses or other related  
29 enforcement action taken by the board relative to the licensee.

30 6582. All proceedings against a licensee for any violation of  
31 this chapter or any regulations adopted by the board shall be  
32 conducted in accordance with the Administrative Procedure Act  
33 (Chapter 5 (commencing with Section 11500) of Part 1 of  
34 Division 3 of Title 2 of the Government Code), and shall be  
35 prosecuted by the Attorney General's office, and the board shall  
36 have all the powers granted therein.

37 6582.5. Notwithstanding Section 6582, if any violation  
38 occurs, in its discretion, the board may refer the case to the  
39 Attorney General or to the local district attorney for criminal  
40 prosecution.

1     6583. The board shall establish a system of administrative  
2 citations and fines under Section 125.9 for violations of this  
3 chapter, the Professional Fiduciaries' Code of Ethics, or any  
4 regulation adopted under this chapter.

5     6584. A license issued under this chapter may be suspended,  
6 revoked, denied, or other disciplinary action may be imposed for  
7 one or more of the following causes:

8     (a) Conviction of any felony or any misdemeanor, if the  
9 misdemeanor is substantially related to the functions and duties  
10 of a professional fiduciary. The record of conviction, or a  
11 certified copy thereof, is conclusive evidence of the conviction.

12     (b) Failure to notify the board of a conviction as required by  
13 paragraph (10) of subdivision (a) of Section 6561.

14     (c) Fraud or misrepresentation in obtaining a license.

15     (d) Fraud, dishonesty, corruption, willful violation of duty,  
16 gross negligence or incompetence in practice, or unprofessional  
17 conduct in, or related to, the practice of a professional fiduciary.  
18 For purposes of this section, unprofessional conduct includes, but  
19 is not limited to, acts contrary to professional standards  
20 concerning any provision of law substantially related to the  
21 duties of a professional fiduciary.

22     (e) Failure to comply with, or to pay a monetary sanction  
23 imposed by, a court for failure to provide timely reports. The  
24 record of the court order, or a certified copy thereof, is  
25 conclusive evidence that the sanction was imposed.

26     (f) Failure to pay a civil penalty relating to the licensee's  
27 professional fiduciary duties.

28     (g) The revocation of, suspension of, or other disciplinary  
29 action against, any other professional license by the State of  
30 California or by another state. A certified copy of the revocation,  
31 suspension, or disciplinary action is conclusive evidence of that  
32 action.

33     (h) Violation of this chapter or of the applicable provisions of  
34 Division 4 (commencing with Section 1400), Division 4.5  
35 (commencing with Section 4000), Division 4.7 (commencing  
36 with Section 4600), ~~and~~ or Division 5 (commencing with Section  
37 5000) of the Probate Code or of any of the statutes, rules, or  
38 regulations pertaining to duties or functions of a professional  
39 fiduciary.



Article 6. Revenue

6590. All fees collected by the board shall be paid into the Professional Fiduciary Fund in the State Treasury, which is hereby created. The money in the fund shall be available to the board for expenditure for the purposes of this chapter only upon appropriation by the Legislature.

6591. The Professional Fiduciary Fund shall be the successor fund to those funds deposited under the Statewide Registry with the Department of Justice pursuant to Chapter 13 (commencing with Section 2850) of Part 4 of Division 4 of the Probate Code.

6592. (a) The fee for a professional fiduciary examination and reexamination shall be set by the board through regulation at the amount necessary to recover the actual costs to develop and administer the examination.

(b) The license fee to obtain a professional fiduciary license shall be set by the board.

(c) The renewal fee for a professional fiduciary license shall be set by the board.

(d) The license and renewal fees under subdivisions (b) and (c) shall be set by the board through regulation at an amount necessary to recover the costs to the board in carrying out the provisions of this chapter.

SEC. 3. Section 60.1 is added to the Probate Code, to read:

60.1. (a) “Professional fiduciary” means a person who is a professional fiduciary as defined under subdivision (f) of Section 6501 of the Business and Professions Code.

(b) On and after January 1, 2008, no person shall act or hold himself or herself out to the public as a professional fiduciary unless he or she is licensed as a professional fiduciary under Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code.

SEC. 4. Article 4 (commencing with Section 2340) is added to Chapter 4 of Part 4 of Division 4 of the Probate Code, to read:

Article 4. Professional Fiduciaries

2340. On and after January 1, 2008, a superior court may not appoint a person to carry out the duties of a professional fiduciary, unless he or she is licensed as a professional fiduciary

1 under Chapter 6 (commencing with Section 6500) of Division 3  
2 of the Business and Professions Code.

3 2341. This article shall become operative on January 1, 2008.

4 SEC. 5. Section 2345 is added to the Probate Code, to read:

5 2345. This article shall remain in effect only until January 1,  
6 2008, and as of that date is repealed, unless a later enacted  
7 statute, that is enacted before January 1, 2008, deletes or extends  
8 that date.

9 SEC. 6. Section 2856 is added to the Probate Code, to read:

10 2856. This chapter shall remain in effect only until January 1,  
11 2008, and as of that date is repealed, unless a later enacted  
12 statute, that is enacted before January 1, 2008, deletes or extends  
13 that date.

14 SEC. 7. This act shall only become operative if Senate Bill  
15 1116, Senate Bill 1716, and Assembly Bill 1363 of the 2005–06  
16 Regular Session are enacted and become effective on or before  
17 January 1, 2007.

18 SEC. 8. No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution because  
20 the only costs that may be incurred by a local agency or school  
21 district will be incurred because this act creates a new crime or  
22 infraction, eliminates a crime or infraction, or changes the  
23 penalty for a crime or infraction, within the meaning of Section  
24 17556 of the Government Code, or changes the definition of a  
25 crime within the meaning of Section 6 of Article XIII B of the  
26 California Constitution.